

REMARKS

This Amendment is being filed in response to the Final Office Action mailed on August 25, 2009 which has been reviewed and carefully considered. Entry of the present amendment and allowance of the present application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 3-22 remain in this application, where claims 1-2 have been canceled without prejudice by the present amendment. Claims 3, 11, 14 and 20 are independent. Applicants reserve the right to reintroduce subject matter deleted herein at a later time during the prosecution of this application or continuing applications.

By means of the present amendment, claims 3-22 have been amended for non-statutory reasons, such as for better form including beginning the dependent claims with 'The' instead of 'A', and deleting reference numerals typically used in European practice that are known to not limit the scope of the claims. Such amendments to claims 3-22 were not made in order to address issues of patentability and Applicants respectfully reserve all rights under the Doctrine of Equivalents.

In the Final Office Action, claims 1-22 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-7, 11-14 and 16-19 of a copending Application No. 10/523,377. The Examiner indicated that a terminal disclaimer may be used to overcome this rejection. This rejection is respectfully traversed. However, it is respectfully submitted that Applicants will consider filing a terminal disclaimer, if necessary in view of any allowable claims, upon indication that the present application is otherwise allowable or includes allowable claims.

In the Final Office Action, the claims 1-2 and 20-22 are rejected under 35 U.S.C. §101. This rejection is respectfully traversed. However, without agreeing with the position forwarded in the Final Office Action and in the interest of advancing prosecution, claims 1-2 have been canceled without prejudice, and claim 20-22 have been amended to better recite statutory subject matter. It is respectfully submitted that the rejection of claims 1-2 and 20-22 has been overcome. Accordingly, withdrawal of this rejection is respectfully requested.

In the Final Office Action, claims 1-22 are rejected under 35

U.S.C. §102(e) over U.S. Patent Application Publication No. 2002/0029256 (Zintel). Applicants respectfully traverse and submit that claims 3-22, as amended, are patentable over Zintel for at least the following reasons.

At the outset, it is pointed out that Zintel has over 51 figures and 46 pages of double columns of text qualifying Zintel as "complex". Therefore pursuant to 37 CFR 1.104, the Examiner must indicate how the reference is being applied. Further, since the reference is complex, Applicants will confine their remarks to those portions cited by the Examiner, except as otherwise indicated. Applicants make no representation as to the contents of other portions of the references.

Zintel is directed to an XML-based template language for devices and services. As recited in the Abstract, a universal plug and play (UPnP) device makes itself known through a set of processes-discovery, description, control, eventing, and presentation. Following discovery of the UPnP device, an entity can learn more about the UPnP device and its capabilities by retrieving the device's description. A template is derived from a template language that is used to define elements to describe the

device and any services supported by the device.

As recited in paragraph [0061], a User Control Point is a set of modules that enable communication with a UPnP Controlled Device. User Control Points initiate discovery and communication with Controlled Devices, and receive Events from Controlled Devices. "Examples of devices that could be User Control Points are the personal computer (PC), digital television (DTV), set-top box (STB), handheld computer and smart mobile phone, and the like. Nothing prevents a single device from implementing the functionality of a User Control Point and one or more Controlled Devices at the same time." (Zintel, paragraph [0061], last two sentences)

It is respectfully submitted that Zintel does not disclose or suggest the present invention as recited in independent claim 3, and similarly recited in independent claims 11, 14 and 20 which, amongst other patentable elements, recites (illustrative emphasis provided):

the device type value being selected from a device type hierarchy having predetermined top level elements including a controller device type and a basic device type, and at least one further level of subsidiary device types depending from the basic

device type and inheriting properties of higher level device types on which the subsidiary device type depends, but not including any further level of subsidiary device types depending from the controller device type.

A hierarchy that includes a controller device type and a basic device type, where the hierarchy does not include any level of subsidiary device types depending from the controller device type, is nowhere disclosed or suggested in Zintel. Rather, paragraph [0069] of Zintel, noted on page 8 of the Final Office Action, merely recites:

Device Definition. The formal definition of a Device Type. A Device Definition includes a Device Type Identifier, the fixed elements in the Description Document, the required set of Service Definitions in the Root Device, and the hierarchy of required Devices and Service Definitions. (Emphasis provided)

Merely reciting that a Device Definition includes the "hierarchy of required Devices and Service Definitions," does not disclose or suggest that the hierarchy does not include "any further level of subsidiary device types depending from the controller device type," as recited in independent claim 3, and similarly recited in independent claims 11, 14 and 20.


Accordingly, it is respectfully requested that independent

claims 3, 11, 14 and 20 be allowed. In addition, it is respectfully submitted that claims 4-10, 12-13, 14-19 and 21-22 should also be allowed at least based on their dependence from independent claims 3, 11, 14 and 20 as well as their individually patentable elements. Accordingly, separate consideration of each of the dependent claims is respectfully requested.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

In view of the above, it is respectfully submitted that the present application is in condition for allowance, and a Notice of Allowance is earnestly solicited.

Respectfully submitted,

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